

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ST. CLAIR INTELLECTUAL PROPERTY :	:
CONSULTANTS, INC., :	:
:	:
Plaintiff, :	:
:	:
v. :	Civil Action No. 08-371-JJF-LPS
:	:
RESEARCH IN MOTION, LTD., :	:
RESEARCH IN MOTION CORP., :	:
GENERAL IMAGING CO., :	:
:	:
Defendants. :	:

MEMORANDUM ORDER

Pending before me in this action are two motions, a Motion For Leave To File A First Amended Complaint (D.I. 82) filed by Plaintiff, St. Clair Intellectual Property Consultants, Inc. (“St. Clair”), and a Motion For Leave To File Amended Answer And Counterclaims (D.I. 78) filed by Defendants Research In Motion, Ltd. and Research In Motion Corp. (collectively, “RIM”).

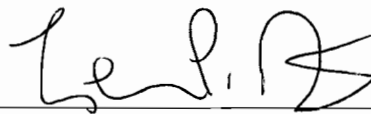
St. Clair’s Motion seeking leave to add a claim of willful infringement against RIM is unopposed and, therefore, I will grant the Motion. In briefing in related litigation, St. Clair has acknowledged that leave to amend its complaint automatically triggers a defendant’s right to file an amended answer. (D.I. 261 at 2 n.3 in Civ. Act. No. 04-1436-JJF-LPS) Furthermore, RIM’s Motion was timely filed within the period I allowed for amending the pleadings. In addition, I find St. Clair’s arguments against the amendment to be largely substantive in nature and not properly addressed in a procedural motion such as this one. *See JP Morgan Chase & Co. v. Affiliated Computer Services, Inc.*, No. 08-189-SLR, 2009 WL 540673, at *1 (D. Del. Mar. 4,

2009) (recognizing that so long as pleading requirements of Fed. R. Civ. P. 8 and 9 are met, “the substantive merits of allegations made in either an amended complaint or an amended answer should be tested though a substantive motion (pursuant to, e.g. Rules 12(b)(6) or 56, not a procedural one”). In addition, I cannot conclude, at this juncture, that the amendments are futile or fail to state a claim. Because leave to amend is freely granted, and St. Clair has not established undue prejudice, undue delay, bad faith, or futility, I will grant RIM’s Motion.

NOW THEREFORE, IT IS HEREBY ORDERED that:

1. Plaintiff’s Motion For Leave To File A First Amended Complaint (D.I. 82) is **GRANTED**.
2. The Clerk shall docket the proposed First Amended Complaint For Patent Infringement attached as Exhibit 1 to the Motion, and the First Amended Complaint shall be deemed filed and served as of the date of this Order.
3. Defendants’ Motion For Leave To File Amended Answer And Counterclaims (D.I. 78) is **GRANTED**.
4. The Clerk shall docket the proposed Amended Answer And Counterclaims attached as Exhibit 1 to the Motion, and the Amended Answer and Counterclaims shall be deemed filed and served as of the date of this Order.

Dated: June10, 2009



The Honorable Leonard P. Stark
UNITED STATES MAGISTRATE JUDGE